GOVERNMENT OF INDIA
URBAN DEVELOPMENT AND POVERTY ALLEVATION
LOK SABHA

UNSTARRED QUESTION NO:3533
ANSWERED ON:11.12.2001
DEDUCTION OF WORKS SALE TAX FROM THE BILLS OF CONTRACTORS IN CPWD
RATILAL KALIDAS VARMA

Will the Minister of URBAN DEVELOPMENT AND POVERTY ALLEVATION be pleased to state:

(a) whether the Government have ordered to deduct works sale tax at the rate of 2 per cent or 4 per cent from the bills of Contractors in C.P.W.D.;

(b) if so, the details thereof;

(c) whether the C.P.W.D. authority while preparing justification for the tender, the above said works sale tax 2 per cent or 4 per cent has taken into account for awarding the tender; and

(d) if not, the reasons therefor?

Answer

MINISTER OF STATE FOR URBAN DEVELOPMENT & POVERTY ALLEVIATION (SHRI BANDARU DATTATREYA)

(a)&(b): Yes, Sir. O.M. No.DGW/MAN/160 dated 26.2.2001 on the subject is Annexed.

(c): While preparing justification for award of works, sale tax/excise tax is included in the cost of the material.

(d): Does not arise in view of (c) above.

ANNEXURE

ANNEXURE REFERRED TO IN REPLY TO PARTS (a) & (b) OF LOK SABHA USQ NO.3533 FOR 11.12.2001.

Copy of Central Public Works Department O.M.No.DGW/MAN/60dated 26th February,2001 issued by Authority of Director General of Works regarding Delhi Sale Tax on Works Contracts Act, 1999.

1. Delhi Sales Tax on Works Contracts Act, 1999 came into force with effect from 1.12.99. In this connection this office circular No. CSQ/SE/C&M/DelsT/435 dated14h December, 1999 may be referred to wherein it was enjoined upon all concerned that the provisions of the said Act may be strictly followed for contracts entered into prior to 1.12.99 and the contractors may be reimbursed in accordance with Clause 38 of the general conditions of contract for CPWD works, 1998.

2. Complaints have been received in this Directorate from certaincontractors and associations that the provisions of the above Act are not being followed by some EEs and they are not being reimbursed, the amount deducted from their bills towards works contract tax, on contracts entered, prior to 1.12.1999 and also the amount paid by them to the Sales Tax Authorities. In this connection, a copy of the circular No.CST/DC/WCC/2000-2001/4602-4613 dated 29.11.2000issued by the Commissioner of Sales Tax, New Delhi is enclosed for guidance. The following further clarifications are issued:-

2.1) Department`s liability to reimburse to the contractor the amount of sales tax deducted/paid under the Act is applicable, under clause 38 of the Standard Contract Document, only in respect of contracts entered into prior to 1.12.1999. Even in such cases, the liability is only to the extent of the tax applicable on the portion of work executed after 1.12.1999.

2.2) The department has no liability to reimburse tax deducted/paid in the case of contracts entered into after 1.12.1999.

2.3) In both cases i.e. contracts entered into before 1.12.99 and after 1.12.99, the contractor has the option for total tax deduction at source at the rate of 4% as composition amount or to opt for 2% deduction at source and subsequent assessment. The contractor has to file an affidavit with the contract awarding agency giving his option.

2.4) Only on contracts entered into before 1.12.99 if a contractor chooses the first option, the composition amount of 4% deducted will be reimbursable as stated in (2.1) above. If he chooses the second option, he will be entitled for refund, as stated in (2.1) above, of 2% deducted at source and also any further tax which he may be required to pay or paid as balance of the tax due after assessment. Such reimbursement will be made on production of proof of payment. Incase total tax payable after assessment is found to be less than 2% deducted at source, the excess amount shall be returned by or recovered from the dues of the contractor for which necessary undertaking shall be obtained at the time of reimbursement of 2%.

2.5) Other instructions contained in the Act and circular dated 29.11.2000 shall be followed strictly by the Executive Engineers.

3. All Executive Engineers are requested to comply and follow these instructions so as to avoid complaints from contractors & their Associations.

Sd/-
(S.K. Mittal)
Superintending Engineer (C&M)